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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/722,244

11/25/2003

Todd R. Carroll

11632N/022020

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32885 7590 01/07/2008

STITES & HARBISON PLLC  
401 COMMERCE STREET  
SUITE 800  
NASHVILLE, TN 37219

EXAMINER

MILLER, WILLIAM L

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

01/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding:**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/722,244

Applicant(s)

CARROLL ET AL.

Examiner

William L. Miller

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-8,10-14,16-32 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,5-8,10-14,16-25 and 42 is/are allowed.
- 6) ☒ Claim(s) 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment received 10-15-2007 has been entered. Claims 1-3, 5-8, 10-14, 16-32 and 42 are pending.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 8.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 3.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Line 10, change "tp" to --to--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/074217 (hereinafter WO217) in view of WO 99/15128 (hereinafter WO128), and further in view of Langley (US#4833010).

WO217 discloses a gas-tight pouch 10 capable of transporting contaminated items, comprising: a polymeric, multi-layered chemical composite barrier material defining an enclosed pouch when end 20 is heat sealed; and an air release valve being viewed as the combination of unidirectional pressure relief valve 24/26 which releases air and adjacent chemisorptive media 48 (page 5, lines 24-29) which filters air.

Regarding claims 26 and 29, WO217 fails to disclose an opening and closing device, namely an air-tight zipper, for pouch access and for inserting and removing contaminated items. However, WO128 discloses a similar container 1 including an opening and closing device, namely air-tight zipper 2, for container access and for inserting and removing contaminated items (abstract). Therefore, as taught by WO128, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify WO217 by including an opening and closing device, namely an air-tight zipper, to facilitate repeated pouch access and simplify the process inserting and removing contaminated items.

Regarding claims 26, 27, and 32, WO217 fails to disclose the composite barrier material as a fabric stitched to form seams. However, as admitted by the applicant on page 13, line 1, of the instant specification, such a fabric barrier material is known per Langley (US#4833010) which teaches utilizing a thermoplastic resin fabric, including polypropylene, low density polyethylene, and polyvinyl(idine) chloride (see abstract), as an effective barrier to chemical permeation. Therefore, as taught by Langley, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify WO217 such that the composite barrier material was a fabric, namely as a thermoplastic resin fabric including polypropylene, low density polyethylene, and polyvinyl(idine) chloride, stitched to form seams to provide an improved barrier to chemical permeation.

Claims 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO217 in view of WO128, and further in view of Carroll (US#2001/0051481).

WO217 discloses a gas-tight pouch 10 capable of transporting contaminated items, comprising: a polymeric, multi-layered chemical composite barrier material defining an enclosed pouch when end 20 is heat sealed; and an air release valve being viewed as the combination of unidirectional pressure relief valve 24/26 which releases air and adjacent chemisorptive media 48 (page 5, lines 24-29) which filters air.

Regarding claims 26 and 29, WO217 fails to disclose an opening and closing device, namely an air-tight zipper, for pouch access and for inserting and removing contaminated items. However, WO128 discloses a similar container 1 including an opening and closing device, namely air-tight zipper 2, for container access and for inserting and removing contaminated

items (abstract). Therefore, as taught by WO128, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify WO217 by including an opening and closing device, namely an air-tight zipper, to facilitate repeated pouch access and simplify the process inserting and removing contaminated items.

Regarding claims 26, 27, and 30, WO217 fails to disclose the composite barrier material as a fabric stitched to form seams. However, as admitted by the applicant on page 15, lines 9-13, of the instant specification, such a fabric barrier material is known per Carroll (US#2001/0051481) which teaches utilizing a fabric barrier material, including a linear low density polyethylene 12 and thermoplastic polyolefin elastomer (TPO) layer 14, as an effective barrier to chemical permeation (see abstract and [0034]). Therefore, as taught by Carroll, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify WO217 such that the composite barrier material was a fabric, including a linear low density polyethylene and a thermoplastic polyolefin elastomer layer, stitched to form seams to provide an improved barrier to chemical permeation.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO217 in view of WO128 in view of Langley as applied to claim 26 above, and further in view of Langley (US#5169697).

WO217 as modified fails to disclose the stitched seams are hermetically sealed via a chemically resistant tape. However, Langley '697 discloses a fabric barrier material wherein its stitched seams are sealed with a chemically resistant tape to enhance chemical resistance (col. 2, lines 24-36). Therefore, as taught by Langley, it would have been obvious to one of ordinary

skill in the art at the time the invention was made to further modify WO217 such that the stitched seams were sealed with a chemically resistant tape to enhance chemical resistance.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO217 in view of WO128 in view of Carroll as applied to claim 26 above, and further in view of Langley (US#5169697).

WO217 as modified fails to disclose the stitched seams are hermetically sealed via a chemically resistant tape. However, Langley '697 discloses a fabric barrier material wherein its stitched seams are sealed with a chemically resistant tape to enhance chemical resistance (col. 2, lines 24-36). Therefore, as taught by Langley, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify WO217 such that the stitched seams were sealed with a chemically resistant tape to enhance chemical resistance.

***Allowable Subject Matter***

Claims 1-3, 5-8, 10-14, 16-25, and 42 are allowed.

***Response to Arguments***

Regarding independent claim 26 and base reference WO217, the applicant argues,

“The WO '217 disclosure a bad device capable transporting bodies and body parts. It comprises a pressure release valve. On the other hand, the present claims disclose an air-purifying system in which the system filters the air as the air passes through the system outside the bag. Many advantages of this system in terms of performance, interchangeability, etc., as opposed to the presence of adjacent chemisorptive media were discussed during the interview. This deficiency of the WO '217 reference is not remedied by the secondary references. Accordingly, Applicant respectfully submits that this rejection should be withdrawn.”

However, claim 26 does not recite/claim an air purifying system in which the system filters the air as the air passes through the system outside the bag, nor any performance feature or

interchangeability thereof. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As discussed above and in the previous Office action regarding claim 26 and base reference WO217, the air release valve is being viewed as the combination of unidirectional pressure relief valve 24/26 which releases air and adjacent chemisorptive media 48 (page 5, lines 24-29) which filters air. The examiner maintains this collective unit reads on the claimed "air release valve that filters and releases pressurized air from within the pouch." It is noted the "air purifying system" recited in allowed claims 1 and 42 is defined as an air-purifying cartridge or canister which filters the air exiting the container through the valve.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Application/Control Number:  
10/722,244  
Art Unit: 3677

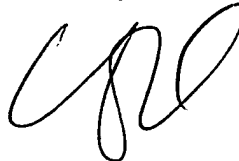
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William L. Miller  
Primary Examiner  
Art Unit 3677



WLM